

OPINION
56-104

September 12, 1956 (OPINION)

ELECTIONS

RE: Nominations - Write-ins - Official Newspaper

This is in reply to your letter of September 7, 1956. You note that of the two newspapers in your county only one has complied with section 46-0603 of the Code, said section dealing with the application to place a newspaper's name on the ballot at the primary election for official newspaper. You state that the other newspaper which did not comply with the above section received 47 write-in votes at the primary election. You call our attention to section 46-0605 of the Code which provides that the names of the two papers with the highest number of votes at the primary shall be placed on the general election ballot. Your question, then, is whether the fact that two percent of the total votes cast for official county newspaper in the last election would require a write-in vote at this primary of sixty rather than forty-seven, prevails over section 46-0605 dealing with the highest number of votes. In other words, are the write-in votes you mentioned sufficient to have the other newspaper's name placed on the general ballot this fall?

Section 16-0428, dealing with nominations by stickers and write-ins, refers only to "a candidate" who may be nominated in such a manner. Chapter 16-04 in its entirety suggest that the "candidate" - whom we feel is the same candidate contemplated in the write-in law - is a person who is running for state, county, or other office. There is no proviso for nomination of an official newspaper by write-ins. On the other hand Chapter 46-06 specifically deals with the manner in which a newspaper's name may be placed on the general ballot. Thus it is our opinion that the newspaper receiving the write-in votes did not receive a nomination at all, so that whether it garnered two percent of the votes cast for that position at the last election makes no difference; also, of course, it could not be considered one of two newspapers with the highest number of votes in the primary as the law does not contemplate nomination by write-in votes for official newspaper.

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Attorney General